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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/655,964	09/06/2000	David M. Singleton	TH0681N (US)	9045

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SHELL OIL COMPANY
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EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/655,964

Applicant(s)

SINGLETON ET AL.

Examiner

Necholus Ogden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12,70-73 and 75-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,12,70-73 and 75-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/05;4/05;4/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Claims 1-10, 12, 70-73, 75-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/16409.

WO '409 disclose a liquid detergent composition comprising a primary alcohol sulfate, wherein said sulfate are made commercially available under Lial 125, Dobanol 25, Empicol Lx, and Texapon (page 3, lines 10-19). WO '409 teaches that at least 20% of the sulfate component is branched (page 5, lines 22-30).

Accordingly, WO '409 lacks the specific teaching of the atom branching and skeletal isomerization.

It would have been obvious to one of ordinary skill in the art to formulate a biodegradable primary alcohol sulfate with the specification as claimed, because WO '409 teaches that the commercially available sulfates are biodegradable (Lial 125) and branched. With respect to the specific atom branching and the skeletal isomerization, it is the examiners position that the claims are directed to the same compound(s) as disclosed in WO '409 and many of the commercially available products possess many of the similar characteristics were one of ordinary skill in the art, in the absence of a showing to the contrary would reasonably construe the sulfates of WO '409 encompassing the claimed sulfate. Furthermore, it has been held that a prima facie case of obviousness may be made when chemical compounds have very close structural similarities and similar utilities. "An obviousness rejection based on similarity in chemical structure and function entails the motivation of one skilled in the art to make a

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claimed compound, in the expectation that compounds similar in structure will have similar properties." In re Payne, 606 F.2d 303, 313, 203 USPQ 245, 254 (CCPA 1979). See In re Papesch, 315 F.2d 381, 137 USPQ 43 (CCPA 1963) and In re Dillon, 919 F.2d 688, 16 USPQ2d 1897 (Fed. Cir. 1991).

With respect to the skeletal isomerization process, it is held that "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Response to Arguments

2. Applicant's arguments filed 8-02-05 have been fully considered but they are not persuasive.
3. Applicant argues that the specific alcohols listed in the WO '409 reference do not require at least 70% branching as stated in the claims.
4. The examiner contends that it would have been obvious to optimize the branching of the specific alcohols and optimize the branching by utilizing well-known natural feedstock. Moreover, it has been held obvious to the skilled artisan that similar structures will have similar properties.
5. With respect to the Table I example in the specification, the examiner contends that applicant has not shown each of the sulfated alcohols as claimed

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only those relating to Dobanol and Neodol 45. Therefore, criticality has not been established with each compound of the prior art disclosure as it relates to branched sulfate compounds.

(1) New Grounds of Rejection

1. Claims 1-10, 12, 70-73, 75-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 85/02175.

WO '175 discloses a detergent composition for use as biodegradable detergents wherein said compositions comprise C14 alcohols having branching at the 2-position and an additional methyl branch. The alcohols have a limited vicinal substitution and no di-substituted carbon chain atoms (i.e. quaternary carbon atom). Note, see pages 5-7.

WO '175 lacks applicant's specific teachings of branches per molecule. It would have been obvious to one of ordinary skill in the art to expect similar characteristics and properties from the sulfated alcohols of WO '175 because they are the same compounds but different isomers. However, absent a showing to the contrary, it has been held that a prima facie case of obviousness may be made when chemical compounds have very close structural similarities and similar utilities. "An obviousness rejection based on similarity in chemical structure and function entails the motivation of one skilled in the art to make a claimed compound, in the expectation that compounds similar in structure will have similar properties." In re Payne, 606 F.2d 303, 313, 203 USPQ 245, 254 (CCPA 1979). See In re Papesch, 315 F.2d 381, 137 USPQ 43 (CCPA 1963) and In re Dillon, 919 F.2d 688, 16 USPQ2d 1897 (Fed. Cir. 1991). Moreover,

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Compounds which are position isomers (compounds having the same radicals in physically different positions on the same nucleus) are generally of sufficiently close structural similarity that there is a presumed expectation that such compounds possess similar properties. In re Wilder, 563 F.2d 457, 195 USPQ 426 (CCPA 1977). See also In re May, 574 F.2d 1082, 197 USPQ 601 (CCPA 1978) (stereoisomer prima facie obvious).

Conclusion

2. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 4-04-05 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Necholus Ogden
Primary Examiner
Art Unit 1751

No
10-16-05